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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,707	04/13/2000	Christopher J. Scott Dougall	P966	6702
24394	7590	06/21/2004	EXAMINER	
LARIVIERE, GRUBMAN & PAYNE, LLP			NAJJAR, SALEH	
19 UPPER RAGSDALE DRIVE			ART UNIT	PAPER NUMBER
SUITE 200				17
MONTEREY, CA 93940			DATE MAILED: 06/21/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/548,707	DOUGALL, CHRISTOPHER J. SCOTT
	Examiner	Art Unit
	Saleh Najjar	2157

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 08 April 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) 7-20 are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

1. This action is responsive to the amendment filed April 8, 2004. Claims 1, and 6 were amended. Claims 1-20 are pending. Claims 7-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, see previous office action.

2. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U. S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U. S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Payne et al. U.S. Patent No 6,021,433 (*previously submitted by the applicant as prior art*).

Payne teaches the invention as claimed including a system and method for transmission of data (see abstract).

As per claim 1, Payne teaches a broadcast system, said broadcast system comprising:

a server-end means for scheduling, gathering and transmitting an entire digital database content of at least one type of digital information service, said server-end means having means for encoding said full-digital data content for

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being broadcasted (see fig. 1; col. 5, lines 20-60; col. 6, lines 5-10; col. 7, lines 40-65; col. 8, lines 1-65; col. 13, lines 50-65, Payne discloses that information source servers 12 comprise broadcast server 34 which schedules and gathers entire digital data base content data for broadcast); and

a client-end means for selectively decoding, continuously receiving, and storing in a client local storage unit said broadcast including said entire full-digital database content and providing the full information content of said one type of digital information services independent of operation of a program guide, in response to said client-end election to receive the broadcasted full digital data base content (see fig. 1; col. 6, lines 60-65; col. 7, lines 25-40; col. 8, Payne discloses a user computer 14 for selectively decoding and receiving the broadcasted using a registration subscription process which selects between real time feeds and that the data is received whether the user is online or offline).

As to claim 2, Payne teaches a broadcast system as described in claim 1, wherein:

said server-end means further comprises communication means for facilitating transmission of said entire digital database content via IP-Multicast, RS422, RS232, and TCP/IP type of communications links for further broadcasting via conduits selected from a group of conduits consisting of television VBI, radio subcarrier, Digital Satellite System (DSS), Digital Video Broadcasting (DVB), MPEG-2, local area networks, paging networks, telephone networks and the Internet (see fig. 2-3; col. 6, lines 1-10; col. 7, lines 45-65; col. 9, lines 1-15; col. 10; col. 13-14, Payne discloses that server 34 comprises gateways for broadcasting content on several different mediums).

As to claim 3, Payne teaches a broadcast system as described in claim 1, wherein:

said means for encoding comprises a packet construction means for breaking up an original digital file into smaller digital file pieces and transmitting said smaller digital file pieces as a stream of packets; and wherein said client-end means comprises broadcast data receiving means for reassembling said

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stream of packets into said original file (see col. 9, lines 50-65; col. 10; col. 11, lines 20-30; col. 12-col. 18, Payne discloses that TCP/IP segmentation and reassembly occurs when transmitting web documents to the users).

As to claim 4, Payne teaches a broadcast system as described in claim 1, wherein:

    said server-end means further comprises means for retrieving and storing an entire digital informational content of a selected electronic network site (see fig. 1-3; col. 6-9, Payne discloses that a user may elect to receive a particular service or feed source while in on-line or off-line mode).

As to claim 5, Payne teaches the a broadcast system as described in claim 1, wherein: said server-end means further comprises a means for providing a program guide of services for use by a user, said program guide facilitating means for selecting which services to receive (see fig. 24; col. 25-28; col. 30, lines 35-50, Payne discloses that a program guide is provided to the client for selectively receiving digital content).

As to claim 6, Payne teaches a contents-based digital data broadcast system, said system comprising:

    a first server-end application program means for retrieving a first type of digital information, and storing entire contents of said digital information locally broadcasted (see fig. 1; col. 5, lines 20-60; col. 6, lines 5-10; col. 7, lines 40-65; col. 8, lines 1-65; col. 13, lines 50-65, Payne discloses that information source servers 12 comprise broadcast server 34 which schedules and gathers entire digital data base content data for broadcast);

    a first server-end application module means for encoding, transmitting in a broadcast scheduled services including said entire contents of said digital information, said first application module comprising means for supporting UP-Multicast, and TCP/IP, RS422, RS232 communications and means for broadcasting said encoded entire contents of said digital information via conduits that comprise television, VBI, radio subcarrier, Digital Satellite System (DSS), Digital Video Broadcasting (DVB), MPEG-2, local area networks, paging

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networks, telephone networks and the Internet (see fig. 2-3; col. Col. 6, lines 1-10; col. 7, lines 45-65; col. 9, lines 1-15; col. 10; col. 13-14, Payne discloses that server 34 comprises gateways for broadcasting content on several different mediums); a second server-end application module means for scheduling tasks for external

modules; facilitating centralized organization of tasks and services provided to a client (see fig. 2; col. 8, lines 25-45, Payne discloses that the content manager organizes and schedules information transmission to the client based on preferences of the client);

a second server-end application program means for issuing and responding to remote commands and reporting on a status of a task to remote modules (see figs. 1, 10; col. 22-col. 26, Payne discloses a server design 18 that includes viewer server 58 and communication server 38 that transmit content based on client feed back information through user viewer interface);

a first client end application program selecting said first type of digital information to transmit (see col. 21, lines 20-45, Payne discloses a client based filtering application that chooses which content to transmit);

a first client-end application program means for decoding and receiving continuously by a broadcast receiver the full content of said broadcasted encoded digital information, and said first client storing locally said first type of digital information on a first client storage (see fig. 1; col. 6, lines 60-65; col. 7, lines 25-40; col. 8, Payne discloses a user computer 14 for selectively decoding and receiving the broadcasted using a registration subscription process which selects between real time feeds and that the data is received whether the user is online or offline); and

a second client end application program guide means for facilitating selection of which service to receive, viewing a schedule of incoming services, and review of a catalog of what services have been received, said program guide means further providing a rotating information banner (see col. 23, lines 30-35;

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col. 27-28, Payne discloses an alert panel for displaying fly in graphics for displaying messages and a program guide);

wherein said broadcast receiver continuously receives the full content of said broadcast encoded digital information independent of said second client end application program guide operation (see fig. 1; col. 6, lines 60-65; col. 7, lines 25-40; col. 8; col. 23-32, Payne discloses a user computer 14 for selectively decoding and receiving the broadcasted using a registration subscription process which selects between real time feeds, that the data is received whether the user is online or offline and that the messages are transmitted to the client independent of the client program guide application).

4. Applicant's arguments filed April 8, 2004 have been fully considered but they are not persuasive. In the remarks, the applicant argues in substance that; A) the office action has failed to specifically point out in the prior art relevant sections such as the "client end means"; B) that Payne never discloses that information source as containing an entire digital database; C) that a word search in Payne reveals no hits for the term "server-end"; D) Payne never discloses client-end means for selective decoding; E) Payne never discloses "continuously receiving"; F) Payne never discloses a program guide and that a word search performed on Payne reveals no hits for the terms "Program Guide"; G) Payne requires two links to a server while the present invention uses one.

In response to A); the applicant is responsible for the entire cited sections of the reference. The previous office action pointed to fig. 1 and col. 6-7. A quick glimpse of the figure and the two columns indicate user computers 14 which read on the claimed "client end means" (see fig. 1; col. 6, lines 60-65; col. 7, lines 25-40; col. 8).

In response to B); No patentable weight has been given to the term "entire digital database", as the examiner interprets this limitation in its broadest meaning a database can be as simple as a file structure and therefore if a whole file was transmitted to a client then an "entire digital database" was transmitted.

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In response to C); the examiner disagrees with applicant the no server-end is found throughout the reference. The entire reference discusses servers, see above rejection with regard to server-end means.

In response to D); Payne discloses that the content manager applies rules selected by the user computer 14 to selectively decode information transmitted to the client (see col. 8-12)

In response to E); Payne discloses a user computer 14 for selectively decoding and receiving the broadcasted using a registration subscription process which selects between real time feeds and that the data is received whether the user is online or offline (see fig. 1; col. 6, lines 60-65; col. 7, lines 25-40; col. 8,).

In response to F); the examiner does not have to show the exact word "program guide" but its equivalency. Payne discloses remote control user interface for opening, closing, controlling viewers, for maintenance of user settings, user preferences and data category selection (see fig. 11; col. 28). Furthermore, Payne does teach the exact limitation of on-line guide (see col. 30).

In response to G); the examiner fails to see what this has to do with the claimed limitations.

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saleh Najjar whose telephone number is (703) 308-7613. The examiner can normally be reached on Monday-Friday from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Ario Etienne*, can be reached on (703) 308-7562.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600. The central official fax number for the group is (703) 872-9306.



Saleh Najjar

Primary Examiner / Art Unit 2157